REMARKS/ARGUMENTS

In the Claims:

Claims 1-12 are now pending in the present application. Claims 1-3 have been amended. New claims 4-12 have been added. No new matter has been presented.

Support for Amendments

Support for the foregoing amendments and new claims can be found at various locations in the specification of published application no. 2006/0130616 A1. Specifically: support for the handle being connected to an intermediate portion of the lever and for the use of a bearing plate for handle connection can be found in each of Figures 4-5, as well as at least paragraph [0025]; support for the operation of the tool on the rotatively operated member can be found at least at paragraphs [0031]-[0034]; support for the construction and operation of the spring can be found in the drawing figures and at least at paragraphs [0013], [0015], [0027], and [0037]; support for rotation of a rotatively operated member in both a clockwise and counterclockwise direction without reorientation of the tool can be found in Figure 5 and at least paragraph [0035]; support for the lower jaw being formed at least partially by a side face of the handle appears in the drawing figures at least at paragraph [0026][1]; support for the inclusion of a grip mounted near a base end of the handle and for the grip being a knob can be found in Figures 1 and 5 and at least at paragraph [0026]; and support for inner surface on the hook-shaped head of the lever contacting an engaging surface of the operated

[1] It should be understood that the side face is referred to as the "left face" in paragraph [0026] due to the orientation of the tool, and could equally correctly be referred to as a "right face" if the orientation were reversed. In either case, both the left face and right face are a side face of the handle.

portion of the rotatively operated member during rotation thereof can be found at least in Figures 2-3 and paragraph [0031].

Rejection of Claims 1-3 Under 35 U.S.C. § 112

The Examiner rejected claims 1-3 under 35 U.S.C. § 112, second paragraph, as being indefinite. Particularly, the Examiner objects to the wording of the first paragraph of claim 1. Claim 1 has been amended to more clearly describe the subject matter recited therein. As a result of said amendment, it is believed that the Examiner's § 112 rejection is now moot and may, therefore, be properly withdrawn.

Rejection of Claims 1-3 Under 35 U.S.C. § 102(b)

The Examiner rejected claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Miller (US 1,395,052). As Applicant does not believe Miller to teach the subject matter of claims 1-3, the rejection is respectfully traversed.

Miller teaches a wrench having a handle terminating at one end in a cammed lower jaw. A pivoting jaw is attached by one of its ends to the handle, near the cammed portion thereof. A torsion spring is located between the handle and the pivoting jaw to bias the pivoting jaw toward the handle (and cammed lower jaw). During use of the wrench in the position shown in Figures 1-7 (i.e., with the opening in the wrench facing to the left), an inner face of the pivoting jaw and an upper face of the cammed lower jaw act in conjunction to clamp a nut therebetween, subsequently allowing for rotation of the nut in a clockwise direction. Turning the handle in an opposite (counterclockwise) direction will cause a rotation of the handle with respect to the pivoting jaw.

The rotatively operating tool of the present invention comprises a handle pivotally attached at one end to an *intermediate* portion of a lever. One end of the lever forms an upper jaw, while the opposite end is coupled to the handle by an elastic spring. The end of the handle connected to the lever forms a lower jaw. During use of the tool in the position shown in Figures 1-5 (i.e., with the opening in the wrench facing to the left), the upper jaw is placed into contact with at least one engaging surface of a rotatively operated member (e.g., a bolt head or hex nut). Subsequent rotation of the handle in a counterclockwise direction causes the lower jaw to pivot with respect to the lever, such that a portion of the lower jaw contacts a second and opposing engaging surface of the rotatively operated member. The rotatively operated member is thereby clamped between the upper jaw and lower jaw and is, thereafter, rotated in a counterclockwise direction by further counterclockwise rotation of the tool. Rotation of the tool in a clockwise direction through use of the handle (6) causes the lower jaw to move away from the rotatively operated member into a position *against a stopper face* located along a lower surface of the lever. Subsequent to this contact, the lever will also move in a clockwise direction along with the handle, causing the upper jaw to slide over the rotatively operated member without rotation thereof.

It should be noted, however, that as shown in Figure 5, the tool of the present invention also provides a user with the option of rotating a rotatively operated member (e.g., a bolt head or hex nut) in an opposite direction without removing and reversing the orientation of the tool - as would be required with the wrench of Miller. More specifically, by grasping both the lever (5) and the handle (6), as opposed to just the

handle (6), the rotatively operated member is firmly clamped between the lower and upper jaws and the tool can be used to rotate the rotatively operated member in an opposite (or in either) direction without having to reverse the orientation of the tool. (See paragraph [0035] of published application no. 2006/0130616 A1).

The wrench of Miller differs considerably from the subject matter claimed in the present application - both in construction and operation. First, the pivoting jaw (i.e., lever) of Miller is attached to the handle by one of its *ends*, not by an *intermediate portion* thereof. This is a significant structural difference that prohibits the wrench of Miller from operating in the same manner as the tool of the present application. Second, the wrench of Miller is devoid of a stopper face that limits rotational movement of the handle in a non-actuating direction. That is, with a nut present in the pivoting jaw of the Miller wrench, counterclockwise (non-actuating) rotation of the handle appears to be substantially uninhibited. Third, the cam (3) of the Miller wrench is designed to exert a clamping force on a nut, etc., only during rotation of the wrench in a single direction. Consequently, if it is desired to rotate the nut in an opposite direction, the Miller wrench *must* be removed from the nut and reversed in orientation.

These structural differences result in inherent operational differences between the wrench of Miller and the tool of the present invention. Specifically: (1) when used in a substantially similar operating orientation (i.e., with the wrench opening facing left), the wrench of Miller is designed to rotate an object in a clockwise direction, while the present tool is designed to rotate an object in a counterclockwise direction; (2) the relationship between the handle and lever of the present tool, in conjunction with the

presence of the stopper face on the lever, assures that the handle need be moved only a short distance in the clockwise (non-actuating) direction before the upper jaw begins to slip around the rotatively operated member and the tool reaches the next operative position; (3) the handle of the Miller wrench must be rotated a significant distance before the cammed lower jaw releases the nut, thereby resulting in increased effort and a greater requisite work area; (4) unlike the design of the present tool, the design of the Miller wrench does not ensure that the cammed lower jaw will clear the nut during rotation of the handle in the non-actuating direction, which contact would undesirably encourage rotation of the nut in a direction opposite that intended; and (5) the wrench of Miller cannot be used to rotate a rotatively operated member in both directions, because a rotation of the Miller wrench in one direction (whether clockwise or counterclockwise being dependent on the orientation of the wrench) will always result in slippage of the cammed lower jaw on its associated engaging surface, an opening of the jaws, and a resultant loss of clamping force on the nut.

In light of the above discussion, it can be understood that the present invention differs significantly from the teachings of Miller. Consequently, Applicant respectfully submits that Miller cannot support a rejection of claims 1-3 under 35 U.S.C. § 102(b).

Rejection of Claim 3 Under 35 U.S.C. § 103(a)

The Examiner rejected claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Watanabe (US D287,928). Applicant has amended claim 1 to more clearly describe the subject matter recited therein. As Applicant believes

independent claim 1 to now be allowable, claim 3, which depends therefrom, would also be allowable.

CONCLUSION

Applicant has amended claims 1-3 and has added new claims 4-12. Applicant has also distinguished the subject matter of the present invention over the teachings of the references cited as prior art by the Examiner.

Therefore, Applicant respectfully submits that the present application is now in condition for allowance, and such action is earnestly requested. Telephone inquiry to the undersigned in order to clarify or otherwise expedite prosecution of the present application is respectfully encouraged.

Respectfully submitted,

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